

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHARIF KING,

Plaintiff,

-against-

W. GARCIA,

Defendant.

21-CV-9118 (PMH)

VALENTIN ORDER

PHILIP M. HALPERN, United States District Judge:

By order dated November 9, 2021, the Court directed service on Defendant W. Garcia and applied Local Civil Rule 33.2 to this action.

On February 28, 2022, the United States Marshal returned the Process Receipt and Return form, indicating, “Mailed No Response, In Person Endeavor – Unable to Locate.” (Doc. 11). On March 15, 2022, the United States Marshal returned an updated Process Receipt and Return Form with an additional notation, “3/11/22 – DOWNSTATE NO LONGER OPEN FACILITY SHUTDOWN.” (Doc. 12).

**DISCUSSION**

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the New York State Department of Correction and Community Supervision (DOCCS) to identify Defendant W. Garcia, who Plaintiff alleges was the correction officer at Downstate Correctional Facility who failed to protect Plaintiff from being attacked by another prisoner on December 19, 2019. It is therefore ordered that the New York State Attorney General, who is the attorney for and agent of DOCCS, must ascertain the badge number of

W. Garcia whom Plaintiff seeks to sue here and the address where W. Garcia may be served.<sup>1</sup> The New York State Attorney General must provide this information to Plaintiff and the Court within sixty (60) days of the date of this order.

Upon receipt of this information, the Court will issue an order directing the Clerk of Court to complete the USM-285 form with the address for W. Garcia and deliver all documents necessary to effect service to the U.S. Marshals Service.

### CONCLUSION

The Clerk of Court is directed to mail a copy of this order and the complaint to the New York State Attorney General at: 28 Liberty Street, New York, New York 10005.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: White Plains, New York  
April 8, 2022



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PHILIP M. HALPERN  
United States District Judge

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<sup>1</sup> If W. Garcia is a former DOCCS employee or official, the New York State Attorney General must provide a residential address where the individual may be served.